

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In the matter of the appeal of

ROBERT J. KOCH

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

Hearing Date: May 12, 2010

Hearing Held At: 200 East Wells Street, Room 301A, City Hall

Conducted Before: Kathryn A. Hein, Commissioner
Paoi X. Lor, Commissioner
Sarah W. Morgan, Commissioner

John J. Carter, Hearing Examiner

Appearances: Mark A. Rohlfing, Chief, by Michael L. Jones, Assistant Chief,
Milwaukee Fire Department
Patricia A. Fricker, Assistant City Attorney
Nola J. Hitchcock Cross, Attorney for Respondent

Allegations: Rule 24.1; Rule 24.2; Rule 26.6; Rule 27.2.

SUMMARY OF PROCEEDINGS

At the hearing on May 12, 2010, testimony was received from:

For the Fire Chief:	Michael Romas
For the Respondent:	Robert Koch
	Mutsumi Ishii, M.D.
	James Hambrecht
	Robert Kelter
	James Heller
	Myron Lenz
	Zachary Gorelik
	Gary Rudak

A transcript of the proceedings is attached and made a part of the record. As a result of the attachment, a summary of the testimony of each witness will not be provided.

FINDINGS OF FACT

1. The hearing convened at approximately 8:30 a.m., with Respondent's attorney requesting a closed hearing which motion was denied.
2. The Respondent was duly served with a copy of the hearing notice and appears with counsel.
3. The Respondent was an employee of the Milwaukee Fire Department on September 9, 2009.
4. The Respondent was scheduled to work as a Fire Equipment Dispatcher on September 9, 2009.
5. The Respondent called in and reported he was unable to work because of an illness and such telephone call was made at approximately 10:00 p.m.
6. The Respondent also telephoned the Fire Department at about 11:30 p.m. and reported he was leaving home to go to the hospital.
7. The Respondent never went to a hospital that night or the next morning.
8. The Respondent left home and went to a tavern where he consumed alcohol.
9. The Respondent was found by a Milwaukee Police Department officer lying on the grass in front of the Respondent's home at about 3:30 a.m. after the Respondent called the police and reported a crime.
10. The Respondent reported to the police that he had been drugged, robbed and had money stolen from him by a woman.
11. The Respondent was interviewed by representatives of the Fire Department where he made several statements, both in oral form and in writing.
12. The Respondent gave a statement to the Fire Department Board of Investigation on September 25, 2009.
13. The Respondent gave a statement to the Fire Department Trial-by-Chief pre-termination hearing on October 23, 2009.
14. On September 14, 2009 the Respondent provided a written statement to the Fire Department on a F105 form regarding the events of that night.

15. The Respondent's expert, Doctor Ishii, testified that the Respondent suffered from Post Traumatic Stress disorder and that it had an effect on his recollection of the events of that night.
16. The Respondent testified that he did not know what happened between the hours of midnight and 3:30 a.m.; during that time the Respondent's debit and/or credit card was repeatedly used.
17. The Commission finds that the Respondent violated Rule 24.1.
18. The Commission finds that the Respondent violated Rule 24.2.
19. The Commission finds that the Respondent violated Rule 26.6.
20. The Commission finds that the Respondent violated Rule 27.2 (14) Untruthfulness.
21. Each of the Rules violated in sections 17 through 20 above is supported by a preponderance of the evidence.
22. Each Rule violated was determined by a unanimous vote the Commissioners.
23. Each of the Just Cause Standards set forth in 62.50 (17) Wis. Stats. has been met by a preponderance of the evidence as to each of the Rules alleged to have been violated.
24. The employee's work performance was performed in a professional and competent manner.
25. The employee was considered highly qualified by his supervisors.
26. The Respondent testified that he believed that if he admitted he had an alcohol problem he might be treated more leniently by management.

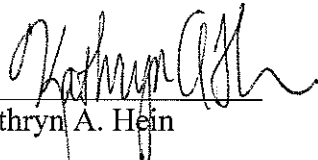
CONCLUSIONS OF LAW

27. The Commissioners resumed in open session and announced their decision of Phase II as follows:


We find by a preponderance of evidence by a unanimous vote of the three Commissioners:

- a. The Charges of the Chief of the Fire Department are sustained.
- b. The determination of the Chief of the Fire Department to terminate the Respondent is sustained.

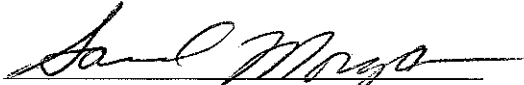
By:



Commissioner Kathryn A. Hein



Commissioner Paoi X. Lor



Commissioner Sarah W. Morgan

Dated at Milwaukee, Wisconsin this 17th day of June, 2010.